

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

In re:)	
)	
HUFFY CORPORATION,)	Chapter 11
an Ohio corporation, et al., ^{1/})	Honorable Lawrence S. Walter
)	
Debtors.)	Case Nos. 04-39148 through
)	04-39167
)	Jointly Administered
)	

SETTLEMENT AGREEMENT

WHEREAS, on or about October 20, 2004, Huffey Corporation et al., the Debtors herein, filed petitions for reorganization under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. § 101, et seq., as amended (the "Bankruptcy Code"); and

WHEREAS, on or about March 14, 2005, the United States, on behalf of the Environmental Protection Agency (the "EPA"), filed a Proof of Claim (the "EPA Proof of Claim") against Huffey Corporation (the "Debtor");

WHEREAS, the EPA Proof of Claim asserts a claim, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq., for the following: (a) at least \$20,626,411 for unreimbursed environmental response costs incurred by the United States at the Baldwin Park Operable Unit of the San Gabriel Valley

¹ The term "Debtors", as used herein, means the following entities: Huffey Corporation, Huffey Risk Management, Inc., HUFECO-Ohio, Inc., HCAC, Inc., Hufco-Delaware Company, Huffey Sports, Inc., American Sports Design Company, Huffey Sports Washington, Inc., Huffey Sports Outlet, Inc., Huffey Sports Canada, Inc., Lehigh Avenue Property Holdings, Inc., Tommy Armour Golf Company, Lamar Snowboards, Inc., Huffey Sports Delaware, Inc., First Team Sports, Inc., Hespeler Hockey Holding, Inc., HUFECO-Georgia I, Inc., HUFECO-Georgia II, Inc., HUFECO-New Brunswick, Inc., and HUF Canada, Inc.

Superfund Sites located in Los Angeles County, California (the "Baldwin Park Site"); (b) for response costs incurred in the future by the United States at the Baldwin Park Site in an amount estimated to be not less than \$200,000,000; (c) at least \$2,137,259 for unreimbursed environmental response costs incurred by the United States at the Lammers Barrel Superfund Site located in Beavercreek, Ohio (the "Lammers Barrel Site"); and (d) for response costs incurred in the future at the Lammers Barrel Site in an amount estimated to be not less than \$8,000,000 (collectively, the "EPA Claim").

WHEREAS, on or about April 14, 2005, the California Department of Toxic Substances Control ("DTSC") filed a Proof of Claim (the "DTSC Proof of Claim") against the Debtor;

WHEREAS, the DTSC Proof of Claim asserts a claim, pursuant to CERCLA and the California Hazardous Substance Account Act ("HSAA"), California Health & Safety Code §§ 25300 et seq., for at least \$3,836,427 for unreimbursed environmental response costs incurred by DTSC at the Baldwin Park Site.

WHEREAS, EPA's and DTSC's Proofs of Claim were asserted as general unsecured claims; and

WHEREAS, the parties hereto, without admission of liability by any party, desire to settle, compromise and resolve the EPA and DTSC Claims;

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration receipt of which is hereby acknowledged;

IT IS HEREBY STIPULATED and agreed to by and between the parties hereto, subject to approval by the Bankruptcy Court, as follows:

1. a. The EPA Claim shall be allowed as an unsecured claim in the amount of \$1,050,000, and shall be paid as an unsecured claim without discrimination in the following manner, in accordance with the terms of the Debtors' confirmed Plan of Reorganization. Within 30 days of the Bankruptcy Court's approval of this Settlement Agreement, and the Bankruptcy Court's approval of the Insurance Settlements, whichever is later, EPA shall receive a cash payment of \$246,000 from the proceeds of the Debtor's settlement with American Home Assurance Company regarding Policy No. CE 3437903 and the Debtor's settlement with Fireman's Fund Insurance Company regarding Policy Nos. XLX 1365528, XLX 1483742, and CRS 2163410 (the "Insurance Settlements"). Of the \$246,000 amount stated above, \$199,000 shall be applied to the portion of EPA's claim relating to the Baldwin Park Site and \$47,000 shall be applied to the portion of EPA's claims relating to the Lammers Barrel Site. (Collectively, the "EPA Cash Payments"). Of the \$47,000 to be applied to the Lammers Barrel Site, \$23,500 shall be applied to unreimbursed past costs and \$23,500 shall be applied to future response costs. Such EPA Cash Payments shall be in complete satisfaction of the EPA Claim of \$1,050,000. The United States will be deemed to have withdrawn the EPA Claim for any amount in excess of such \$1,050,000 amount. Distributions received by EPA will either be: (i) deposited in site-specific special accounts within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the particular site for which a claim has been allowed, or be transferred by EPA to the EPA Hazardous Substance Superfund; or (ii) deposited into the EPA Hazardous Substance Superfund.

b. The DTSC Claim shall be allowed as an unsecured claim in the amount of \$228,000, and paid as an unsecured claim without discrimination in the following manner, in

accordance with the terms of the Debtors' confirmed Plan of Reorganization. Within 30 days of the effective date of the Debtors' Plan or Bankruptcy Court approval of this Settlement Agreement, whichever is later, DTSC shall receive a cash payment of \$54,000 from the proceeds of the Insurance Settlements (the "DTSC Cash Payment"). Such DTSC Cash Payment shall be in complete satisfaction of the DTSC Claim of \$228,000. DTSC will be deemed to have withdrawn the DTSC Claim for any amount in excess of such \$228,000 amount.

2. Payment on the EPA Claim shall be made on behalf of Huffly by Electronic Funds Transfer ("EFT" or wire transfer) to the U.S. Department of Justice lockbox bank in accordance with instructions provided by the United States to the Debtors after execution of this Settlement Agreement. The \$199,000 payment to be applied to the Baldwin Park Site shall reference CERCLA Site Spill Number 09M5. The \$47,000 payment to be applied to the Lammers Barrel Site shall reference CERCLA Site Spill No. 05BX. Both payments shall also reference U.S.A.O. File No. 2005Z00673 and DOJ Case No. 90-11-3-07706/1. Any EFTs received at the U.S. DOJ lockbox bank after 11:00 A.M. (Eastern Time) will be credited on the next business day.

Payment on the DTSC Claim shall be made on behalf of Huffly in the form of a certified or cashier's check made payable to Cashier, California Department of Toxic Substances Control, along with a transmittal letter referencing the Baldwin Park Operable Unit, San Gabriel Valley Superfund Sites, Project Nos. 300133, 300345, 300349, and 300350, and sent to the following address:

Department of Toxic Substances Control
Accounting/Cashier
1001 I Street, 21st Floor
P.O. Box 806
Sacramento, CA 95812-0806

3. Only the amount of cash received by EPA (or net cash received by EPA on account of any non-cash distributions) from the Debtors under this Settlement Agreement for EPA's allowed Unsecured Claim, and not the total amount of the allowed claim, shall be credited by EPA to its account for the Baldwin Park Site and the Lammers Barrel Site. Such amounts credited shall reduce the liability of non-settling potentially responsible parties to EPA for the Baldwin Park Site by the amount of the credit at the Baldwin Park Site and shall reduce the liability of non-settling potentially responsible parties at the Lammers Barrel Site by the amount of the credit at the Lammers Barrel Site. Only the amount of cash received by DTSC (or net cash received by DTSC on account of any non-cash distributions) from the Debtors under this Settlement Agreement for DTSC's allowed Unsecured Claim, and not the total amount of the allowed claim, shall be credited by DTSC to its account for the Baldwin Park Site, which credit shall reduce the liability of non-settling potentially responsible parties to DTSC for the Baldwin Park Site by the amount of the credit.

4. In consideration of the payments or distributions that will be made by the Debtors under the terms of this Settlement Agreement, and except as provided in paragraph 5, the United States covenants not to bring a civil action or take administrative action against the Debtors pursuant to Sections 106 and 107 of CERCLA relating to the Baldwin Park Site and the Lammers Barrel Site, and DTSC covenants not to bring a civil action or take administrative action against the Debtors pursuant to Sections 106 and 107 of CERCLA relating to the Baldwin

Park Site. These covenants not to sue are conditioned upon the complete and satisfactory performance by the Debtors of their obligations under this Settlement Agreement. These covenants not to sue extend only to the Debtors and do not extend to any other person.

5. The covenants not to sue set forth in the previous paragraph do not pertain to any matters other than those expressly specified in the previous paragraph. The United States and DTSC reserve, and this Settlement Agreement is without prejudice to, all rights against the Debtors with respect to all other matters, and specifically with respect to: liability for damages for injury to, destruction of, or loss of natural resources; liability for response costs that have been or may be incurred by federal and state agencies which are trustees for natural resources; claims based on a failure by the Debtors to meet a requirement of this Settlement Agreement; and claims for any site other than the Baldwin Park Site and the Lammers Barrel Site.

6. The Debtors reserve, and this Settlement Agreement is without prejudice to, Debtors' right to object to any claim or cause of action asserted with respect to such other matters described in Paragraph 5, and specifically with respect to claims alleging liability for damages for injury to, destruction of, or loss of natural resources, or for liability for response costs that have been or may be incurred by federal and state agencies which are trustees for natural resources. Debtors are not aware of any such claims being asserted or filed with respect to the Baldwin Park Site or the Lammers Barrel Site. Nothing in this Paragraph shall prejudice the rights of the United States and DTSC to enforce the requirements of this Settlement Agreement.

7. With regard to claims for contribution against the Debtors for matters addressed in this Settlement Agreement, the Debtors are entitled to such protection from

contribution actions or claims as is provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2).

8. The Debtors covenant not to sue and agree not to assert any claims or causes of action against the United States with respect to the Baldwin Park Site and the Lammers Barrel Site, including but not limited to: any direct or indirect claim for reimbursement from the Hazardous Substance Superfund; any claims for contribution against the United States, its departments, agencies or instrumentalities; and any claims arising out of response activities at the Baldwin Park Site and the Lammers Barrel Site. The Debtors covenant not to sue and agree not to assert any claims or causes of action against DTSC with respect to the Baldwin Park Site, including but not limited to: any direct or indirect claim for reimbursement from DTSC; any claims for contribution against DTSC, its departments, agencies or instrumentalities; and any claims arising out of response activities at the Baldwin Park Site. Nothing in this Settlement Agreement shall be construed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

9. Nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a party to this Settlement Agreement.

10. Debtors' entry into this Settlement Agreement will be subject to Bankruptcy Court approval pursuant to Bankruptcy Rule 9019. Debtors agree to exercise their best efforts to obtain the approval of the Bankruptcy Court. This Settlement Agreement will also be submitted for public comment following notice of the Settlement Agreement in the Federal Register. The United States reserves the right to withdraw or withhold its consent if the public comments regarding the Settlement Agreement disclose facts or considerations which indicate that the Settlement Agreement is inappropriate, or improper, or inadequate.

11. This Settlement Agreement is contingent upon the Bankruptcy Court's approval of the Insurance Settlements. If either this Settlement Agreement or the Insurance Settlements are not authorized and approved by the Bankruptcy Court, this Settlement Agreement shall be of no force and effect, whereupon nothing herein shall be deemed an admission of any fact or waiver of any right of either party with respect to the matters contained herein.

12. This Settlement Agreement represents the complete agreement of the parties hereto on the matters referred to herein and supersedes all prior agreements, understandings, promises and representations made by the parties hereto concerning the subject matter hereof. This Settlement Agreement may not be amended, modified or supplemented, in whole or in part, without the prior written consent of the parties hereto and the approval of the Bankruptcy Court.

FOR THE UNITED STATES OF AMERICA

8/30/05
Date

KELLY A. JOHNSON
Acting Assistant Attorney General
Environment and Natural Resources
Division
U.S. Department of Justice
Washington, D.C. 20530

**Settlement Agreement, In Re Huffy Corp., Case Nos. 04-39148 through 04-39167,
regarding Lammers Barrel Superfund Site and Baldwin Park Operable Unit of San
Gabriel Superfund Site between Huffy Corporation et al. as Debtors and United States of
America on behalf of United States Environmental Protection Agency and California
Department of Toxic Substances Control as Claimants**

9-20-05

Date

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Date

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8-30-05

Date

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8/24/05

Date

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Department of Toxic Substances Control as Claimants**

8/24/05
Date

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**FOR THE CALIFORNIA DEPARTMENT OF
TOXIC SUBSTANCES CONTROL**

Date

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Date

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and California Department of Toxic Substances Control as Claimants**

Date

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**FOR THE CALIFORNIA DEPARTMENT OF
TOXIC SUBSTANCES CONTROL**

8/26/05
Date

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California Department of Toxic Substances Control

Sept. 6, 2005
Date

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FOR DEBTORS² HUFFY CORPORATION

**States of America on behalf of United States Environmental Protection Agency
and California Department of Toxic Substances Control as Claimants**

FOR DEBTORS² HUFFY CORPORATION

Date

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Date

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² The term "Debtors", as used herein, means the following entities: Huffy Corporation, Huffy Risk Management, Inc., HUFECO-Ohio, Inc., HCAC, Inc., Hufco-Delaware Company, Huffy Sports, Inc., American Sports Design Company, Huffy Sports Washington, Inc., Huffy Sports Outlet, Inc., Huffy Sports Canada, Inc., Lehigh Avenue Property Holdings, Inc., Tommy Armour Golf Company, Lamar Snowboards, Inc., Huffy Sports Delaware, Inc., First Team Sports, Inc., Hespeler Hockey Holding, Inc., HUFECO-Georgia I, Inc., HUFECO-Georgia II, Inc., HUFECO-New Brunswick, Inc., and HUF Canada, Inc.

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~~CHRISTENSEN, MILLER, FINK, JACOBS, GLASER,
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Date

Aug 13, 2005

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